Executive Summary – Enforcement Matter – Case No. 43532 Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell RN102012473 Docket No. 2012-0340-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Kwick Korner Shell, 203 South Timberland Drive, Lufkin, Angelina County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 2, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,132

Amount Deferred for Expedited Settlement: \$2,026 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,106 Total Due to General Revenue: \$0

Payment Plan: N/A **SEP Conditional Offset:** \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN601101553 - Average Person/CN603797085 - High

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A **Complaint Information**: N/A

Date(s) of Investigation: August 5, 2010 and December 28, 2011

Date(s) of NOE(s): January 12, 2012

Violation Information

- 1. Failed to operate and maintain the underground storage tank ("UST") system in accordance with accepted industry practices. Specifically, staining was observed on the equipment beneath dispenser nos. 3, 5, and 7 and in sump no. 1 [30 Tex. ADMIN. CODE § 334.48(b)].
- 2. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current release detection information for the UST system [30 Tex. Admin. Code § 334.7(d)(3)].
- 3. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contains regulated substances [30 Tex. ADMIN. CODE § 334.50(a)(1)(A) and Tex. WATER CODE § 26.3475(c)(1)].
- 4. Failed to test the line leak detectors at least once per year for performance and operational reliability [30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a)].
- 5. Failed to conduct reconciliation of inventory control at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)].
- 6. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 Tex. Admin. Code § 334.50(d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondents successfully conducted the line leak detector and piping tightness testing on January 24, 2011.

Technical Requirements:

The Order will require Respondents to:

Executive Summary – Enforcement Matter – Case No. 43532 Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell RN102012473 Docket No. 2012-0340-PST-E

- a. Within 30 days:
- i. Submit an amended registration to reflect the current release detection information for the UST system;
- ii. Install and implement a release detection method for the USTs at the Facility and begin recording volume measurements and reconciliation of inventory control at least once a month;
- iii. Implement procedures to ensure the UST system is operated and maintained in accordance with accepted industry practices including, but not limited to inspecting the equipment beneath dispenser nos. 3, 5, and 7 and sump no. 1 to ensure no leaks are present; and cleanup and dispose of the stained soils at an authorized facility.
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Maggie Dennis, Enforcement Division,

Enforcement Team 7, MC 128, (512) 239-2578; Debra Barber, Enforcement Division,

MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Khaled Karim, Owner, Kwick Korner Shell, 5 Windsor Court, Lufkin,

Texas 75901

Shaki Pyakurel, Owner, Kwick Korner Shell, 5 Windsor Court, Lufkin, Texas 75901

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 Assigned 17-Jan-2012 PCW 2-Feb-2012 Screening 18-Jan-2012 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell Reg. Ent. Ref. No. RN102012473 Major/Minor Source Major Facility/Site Region 10-Beaumont CASE INFORMATION Enf./Case ID No. 43532 No. of Violations 3 Docket No. 2012-0340-PST-E Order Type 1660 Media Program(s) Petroleum Storage Tank Government/Non-Profit No Multi-Media Enf. Coordinator Wallace Myers EC's Team Enforcement Team 7 Admin. Penalty \$ Limit Minimum Maximum \$10,000 Penalty Calculation Section **TOTAL BASE PENALTY (Sum of violation base penalties)** \$10,000 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. \$0 **Compliance History** 0.0% Enhancement Subtotals 2, 3, & 7 Notes No adjustment for compliance history. \$0 Subtotal 4 Culpability No 0.0% Enhancement The Respondents do not meet the culpability criteria. **Notes Good Faith Effort to Comply Total Adjustments** Subtotal 5 **\$0** Subtotal 6 \$0 **Economic Benefit** 0.0% Enhancement* Total EB Amounts Capped at the Total EB \$ Amount \$343 Approx. Cost of Compliance **SUM OF SUBTOTALS 1-7** \$10,000 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$132 1.3% Reduces or enhances the Final Subtotal by the indicated percentage. Enhancement to capture the avoided cost of compliance associated with **Notes** violation no. 3. Final Penalty Amount \$10,132 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$10,132 -\$2,026 **DEFERRAL** 20.0% Reduction Adiustment Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g.

Deferral offered for expedited settlement.

Notes

PAYABLE PENALTY

20 for 20% reduction.)

\$8,106

Screening Date 18-Jan-2012

Docket No. 2012-0340-PST-E

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Respondent Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell

Case ID No. 43532

Reg. Ent. Reference No. RN102012473

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

	ry Site Enhancement (Subtotal 2)		
Component	Number of	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Plea	ase Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Other	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Perc	centage (Sub	 total 2) [
epeat Violator (Subtotal 3)		
No	Adjustment Perd	entage (Sub	total 3)
mpliance Histo	ry Person Classification (Subtotal 7)		
Average Pe	rformer Adjustment Perc	entage (Subt	total 7)
mpliance Histo	ry Summary		
Compliance History	No adjustment for compliance history.		

Scr	eening Date	18-Jan-2012		Docket	No. 2012-0340-PST-E		PCW
The suffer which is the second of the below	A SECTION OF THE SECT		nd Shaki Pyakure	l dba Kwick Kor	ner Shell	Policy Revision 2 (
	Case ID No.					PCW Revision (October 30, 2008
 Or a construction of the property of the property. 	ference No.		nee Took				
	ia [Statute] Coordinator		age rank				
	lation Number						
	Rule Cite(s)		30 Tex.	Admin. Code §	334.48(b)		
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						·	
					nd storage tank ("UST")		
Violatio	on Description				pecifically, staining was		
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					Da	ise Peliaity	\$10,000
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			Harm				
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OR	Actual Potential			X	Percent 25%	ח	
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>>Programma	atic Matrix						
	Falsification	Major	Moderate	Minor			
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			tino i	Totacion.			
				1.1053398111123188	Adjustment	\$7,500	

							\$2,500
Violation Even						1. p. 1. 12 (1. p. 1. p. 1	
VIOIALIDII EVEII						HAAR EX	
	Number of V	iolation Events	1	2:	Number of violation	n days	
	•				- · · · - ·		
		daily					
		weekly					
	mark only one	monthly quarterly	×		Violation Ba	se Penalty	\$2,500
	with an x	semiannual			***************************************		4-7
		annual					
		single event					
	One quart	erly event is red	commended base	d on documenta	ition of the violation duri	ing the	
	De	cember 28, 201	1 investigation to	the January 18	3, 2012 screening date.		

Good Faith Eff	orts to Comi	olv	0.0% Red	luction			\$0
	•		Before NOV NOV	to EDPRP/Settleme	ent Offer		
		Extraordinary					
		Ordinary					
		N/A	x (ma	k with x)		71	
		N - 4	The Respondent	do not meet th	ne good faith criteria for		
		Notes	·	this violation	on.		
		<u>[</u>				1	
					Violatio	n Subtotal	\$2,500
	MMX2004002077.05555			a paragonal in Sec. (Sec.)			
Economic Ben	efit (EB) for	this violatio	n		Statutory Limi	t Te st	
	Fetimate	ed EB Amount		\$34	Violation Final Per	alty Total	\$2,533
	Laterial	Amount			TIGIGUET I III DI PEI	,	4-,000
			This violatio	n Final Assess	ed Penalty (adjusted	for limits)	\$2,533
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NUMBER AND THE REPORT OF THE SECOND OF THE ARCTOR OF THE SECOND OF THE S		conomic	Benefit	WO	rksheet	· 157552	
Respondent	Khaled Karim	and Shaki Pyakur	el dba Kwick Ko	rner Sl	hell		
Case ID No.	43532	•					
eg. Ent. Reference No.							
	Petroleum Sto	rage Tank					Years of
Violation No.						Percent Interest	Depreciation
V. C. G. C.	•					5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	· · · · · · · · · · · · · · · · · · ·	EB Amount
Item Description							
	NO COMMINS OF \$						
Delayed Costs						V77.48	
Equipment		r		0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	l n/a l	\$0
Other (as needed)	\$312 Estimated cos	5-Aug-2010 st to implement p	18-Oct-2012 rocedures to en	2.21 sure th	\$34 ne UST system is fu	n/a unctioning properly a	\$34 and to cleanup
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Respon	Date 18-Jan-2012 dent Khaled Karim and ! • No. 43532		ket No. 2012-0340-PST-E Korner Shell	PCW Policy Revision 2 (September 2002) PCW Revision October 30, 2008
Reg. Ent. Reference Media [Stat Enf. Coordin	e No. RN102012473 ute] Petroleum Storage lator Wallace Myers	Tank		, cu kensan edeber sa, 2000
Violation Nu Rule Ci		30 Tex. Admin. Coc	le § 334.7(d)(3)	
Violation Descri	USTs within 30 d	ays of the occurrence of t	or additional information regar the change or addition. Specific current release detection inform ystem.	cally, the
	•		Bas	e Penalty \$10,000
>> Environmental, Pr		Harm		
OR	lease Major M Actual tential	Ioderate Minor	Percent 0%	
>>Programmatic Mat				
Falsifica	ation Major M	loderate Minor	Percent 25%	
Matrix	100%	of the rule requirement v	was not met.	
Notes				
			Adjustment	\$7,500
Violation Events				\$2,500
	per of Violation Events	1	21 Number of violation	days
mark onl with a		X	Violation Base	e Penalty \$2,500
	0	ne single event is recomn	nended.	A
Good Faith Efforts to		0.0% Reduction fore NOV NOV to EDPRP/Sett X (mark with x)	tlement Offer	\$0
	Notes Th	e Respondents do not me this vio	et the good faith criteria for plation.	MATERIAL STATE OF THE STATE OF
			Violation	Subtotal \$2,500
Economic Benefit (EB) for this violation		Statutory Limit	Test
Est	timated EB Amount	\$11	Violation Final Pena	\$2,533
		This violation Final As	sessed Penalty (adjusted fo	r limits) \$2,533

Violation No. 2	3532 N102012473 etroleum Sto	•		Yrs		Percent Interest 5.0 Onetime Costs \$0 \$0	Years of Depreciation 15 EB Amount \$0 \$0
Req. Ent. Reference No. RI Media Pe Violation No. 2 Item Description No. 2 Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land	N102012473 etroleum Sto	rage Tank	Final Date	0.00	\$0 \$0	\$0 \$0 \$0	Depreciation 15 EB Amount \$0 \$0
Media Pe Violation No. 2 Item Description No. 2 Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land	etroleum Sto	rage Tank	Final Date	0.00	\$0 \$0	\$0 \$0 \$0	Depreciation 15 EB Amount \$0 \$0
Media Per Violation No. 2 Item Description No. 2 Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land	etroleum Sto	rage Tank	Final Date	0.00	\$0 \$0	\$0 \$0 \$0	Depreciation 15 EB Amount \$0 \$0
Violation No. 2 Item Description No. 2 Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land	Item Cost		Final Date	0.00	\$0 \$0	\$0 \$0 \$0	15 EB Amount \$0 \$0
Ttem Description N Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land	Item Cost	Date Required	Final Date	0.00	\$0 \$0	Onetime Costs \$0 \$0 \$0	15 EB Amount \$0 \$0
Delaved Costs Equipment Buildings Other (as needed) Engineering/construction Land		Date Required	Final Date	0.00	\$0 \$0	Onetime Costs \$0 \$0 \$0	\$0 \$0
Delaved Costs Equipment Buildings Other (as needed) Engineering/construction Land	No commas or \$			0.00	\$0	\$0	\$0
Equipment Buildings Other (as needed) Engineering/construction Land				0.00	\$0	\$0	\$0
Equipment Buildings Other (as needed) Engineering/construction Land				0.00	\$0	\$0	\$0
Buildings Other (as needed) Engineering/construction Land				0.00	\$0	\$0	\$0
Other (as needed) Engineering/construction Land				0.00			
Engineering/construction Land					1 80	l \$0 l	\$0
Land				0.00	\$0	\$0	\$0
		11 1		0.00	\$0	n/a	\$0
				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	5-Aug-2010	18-Oct-2012	2.21	\$11	n/a	\$11
Notes for DELAYED costs	date	e of the initial inv	estigation and t	he fina	I date is the estim	stration. The date reated date of complia	nce.
Avoided Costs	ANNUAL	IZE [1] avoided	costs before			for one-time avoid	
Disposal				0.00	\$0	\$0	· \$0
Personnel				0.00	\$0	\$0	\$0
spection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$100			TOTAL		\$11

Case ID No. 435: Reg. Ent. Reference No. RN1 Media [Statute] Petr. Enf. Coordinator Wall Violation Number Rule Cite(s) Violation Description Violation Description	32 .02012473 roleum Storage Talace Myers 3 Tex. Admin. Cod Failed to provide a prtion of the UST sectors at least on conciliation of invegent a release whice	e § 334.50(a)(1)(A), (b)(2 and Tex. Water Code § a method of release detect system which contains reg ce per year for performan	2)(A)(i)(III), (d)(1)(B)(ii), and (d	i)(1)(B)(iii)(I)	September 200 October 30, 20
Media [Statute] Petrice Formula (Statute) Pe	oleum Storage Talace Myers Tex. Admin. Cod Failed to provide a prtion of the UST stectors at least on conciliation of invect a release whice	e § 334.50(a)(1)(A), (b)(2 and Tex. Water Code § a method of release detect system which contains reg ce per year for performan	26.3475(a) and $(c)(1)$	i)(1)(B)(iii)(I)	October 30, 20
Media [Statute] Petr Enf. Coordinator Wall Violation Number Rule Cite(s) 30	roleum Storage Talace Myers 3 Tex. Admin. Cod Failed to provide a prtion of the UST sectors at least on conciliation of invegent a release which	e § 334.50(a)(1)(A), (b)(2 and Tex. Water Code § a method of release detect system which contains reg ce per year for performan	26.3475(a) and $(c)(1)$		
Violation Description Wall Violation Number Rule Cite(s) F po detr recr dete fc	Failed to provide a prtion of the UST sectors at least on conciliation of invector a release which	e § 334.50(a)(1)(A), (b)(2 and Tex. Water Code § a method of release detect system which contains reg ce per year for performan	26.3475(a) and $(c)(1)$		
Violation Number Rule Cite(s) F po detr recr dete fc	3 December 1997 Tex. Admin. Cod Failed to provide a prtion of the UST attention of the UST attention of invested a release which	and Tex. Water Code § a method of release detect system which contains reg ce per year for performan	26.3475(a) and $(c)(1)$		
Rule Cite(s) Food determined to the control of the	Failed to provide a prtion of the UST sectors at least on conciliation of inve	and Tex. Water Code § a method of release detect system which contains reg ce per year for performan	26.3475(a) and $(c)(1)$		
Violation Description Violation for	Failed to provide a prtion of the UST stectors at least on conciliation of invesect a release which	and Tex. Water Code § a method of release detect system which contains reg ce per year for performan	26.3475(a) and $(c)(1)$		
Violation Description dete	ortion of the UST sectors at least on conciliation of invector a release which	system which contains reg ce per year for performan			
Violation Description dete	ortion of the UST sectors at least on conciliation of invector a release which	system which contains reg ce per year for performan		se from any	
Violation Description recodete	conciliation of inve				
violation Description dete	ect a release whic				
fc		•	in a month, in a manner sufficient im of 1.0% of the total substanc		
re	or the month plus	•	o record inventory volume meas	- 1	
ll l	agulated substanc		d the amount still remaining in th	ie tank each	
<u> </u>		operatir	ng day.		
				Base Penalty	\$10,0
Environmental, Property a	and Human H	ealth Matrix			
Release		arm Ierate Minor			
R Actual					
Potential	x		Percent 50%		
# # #################################	managara - Tarahaya Malabasa -	Nacional de la companya de la compa	**************************************		
rogrammatic Matrix Falsification	Major Mod	lerate Minor			
Tasincation	Inajor Mod	erace Minor	Percent 0%		
<u> </u>			5 /9		
		•	pollutants which would exceed le	II II	
Notes protec	ctive of human he	alth or environmental rece	eptors as a result of the violation	•	
<u> </u>					
			Adjustment	\$5,000	
					#F 0
					\$5,0
ation Events					
		BUT OF THE STATE O	- 1975年 - 1970年 (1986年) - 1986年 (1986年) - 1986年 (1986年) - 1986年 - 1987年 - 19		
Number of Violat	ion Events	1 2	1 Number of violation days		
■ ACC-LANGE					
	daily				
	weekly				
mark only one	monthly uarterly	×	Violation I	Base Penalty	\$5,0
With an X	mlannual		Violation	Dase Fellanty	#3,0
1 12:	annual				
b 63	igle event				
<u></u>	A CONTRACTOR OF THE PROPERTY O				
One monthly exect	· is recommended	hased on documentation	of the violation during the Decem	ther 28 2011	
One monthly event		based on documentation of the total tion to the January 18, 20	of the violation during the Decem	ber 28, 2011	
One monthly event				nber 28, 2011	
		tion to the January 18, 20		nber 28, 2011	
	investiga	tion to the January 18, 20 0.0% Reduction	12 screening date.	nber 28, 2011	
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d Faith Efforts to Comply	ordinary N/A Notes The f	Reduction e NOV NOV to EDPRP/Settlem x (mark with x) Respondents do not meet t this violati	ent Offer the good faith criteria for on. Violat	ion Subtotal	

Economic Benefit Worksheet Respondent Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell **Case ID No.** 43532 Reg. Ent. Reference No. RN102012473 Media Petroleum Storage Tank Years of Percent Interest Depreciation Violation No. 3 15 5.0 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs **EB Amount** Item Description No commas or \$ **Delayed Costs** 0.00 \$0 \$0 \$0 Equipment Buildings <u>\$0</u> \$0 0.00 \$0 \$0 Other (as needed) 0.00 \$0 \$0 \$0 **Engineering/construction** 0.00 \$0 \$0 \$0 Land 0.00 \$0 n/a **Record Keeping System** 0.00 \$0 n/a \$0 Training/Sampling 0.00 \$0 n/a \$0 Remediation/Disposal 0.00 \$0 \$0 n/a **Permit Costs** \$0 0.00 \$0 n/a 5-Aug-2010 18-Oct-2012 2.21 \$165 Other (as needed) \$165 n/a Estimated cost to provide release detection for the UST system at the Facility. The date required is the **Notes for DELAYED costs** date of the initial investigation and the final date is the estimated date of compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) Avoided Costs 0.00 \$0 Disposal \$0 Personnel 0.00 \$0 \$0 Inspection/Reporting/Sampling 0.00 \$0 \$0 \$0 Supplies/equipment 0.00 \$0 \$0 <u>\$0</u> Financial Assurance [2] 0.00 \$0 \$0 \$0 \$118 **5-Au**a-2009 ONE-TIME avoided costs [3] 2.39 \$14 \$118 \$132 Other (as needed) Estimated avoided cost to conduct the annual line leak detector testing. The date required is one year **Notes for AVOIDED costs** prior to the initial investigation date and the final date is the date of compliance. TOTAL \$298 \$1,618 **Approx. Cost of Compliance**

Compliance History Report CN601101553 Karim, Khaled Customer/Respondent/Owner-Operator: Classification: AVERAGE Rating: 1.50 Regulated Entity: RN102012473 Kwick Korner Shell Classification: HIGH Site Rating: 0.00 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 47790 REGISTRATION 203 S TIMBERLAND DR, LUFKIN, TX, 75901 Location: TCEQ Region: **REGION 10 - BEAUMONT** Date Compliance History Prepared: January 18, 2012 Agency Decision Requiring Compliance History: Enforcement Compliance Period: January 18, 2007 to January 18, 2012 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History 512-239-6580 Phone: Name: Wallace Myers **Site Compliance History Components** 1. Has the site been in existence and/or operation for the full five year compliance period? YES 2. Has there been a (known) change in ownership/operator of the site during the compliance period? Karim, Khaled, OWNER since 08/01/2008 3. If YES, who is the current owner/operator? Pyakurel, Shaki, OPERATOR since 08/01/2008 BRENCO MARKETING CORP., OPERATOR since 08/01/2008 Karim, Khaled, OWNER OPERATOR, 6/7/2001 to 8/1/2008 4. If YES, who was/were the prior owner(s)/operator(s)? 5. If YES, when did the change(s) in owner or operator occur? 8/1/2008 6. Rating Date: 9/1/2011 Repeat Violator: NO Components (Multimedia) for the Site: Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. N/A B. Any criminal convictions of the state of Texas and the federal government. C. Chronic excessive emissions events. N/A D. The approval dates of investigations. (CCEDS Inv. Track. No.) 08/23/2010 (849629)

1 08/23/2010 (849629) 2 01/05/2011 (877469) 3 01/12/2012 (977223) 4 01/12/2012 (980410) 5 01/12/2012 (980475)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator:

CN603797085

Pyakurel, Shaki

Classification: HIGH

Rating: 0.00

47790

Regulated Entity:

RN102012473

Kwick Korner Shell

Classification: HIGH

Site Rating: 0.00

ID Number(s):

PETROLEUM STORAGE TANK

REGISTRATION

Location:

203 S TIMBERLAND DR, LUFKIN, TX, 75901

TCEQ Region:

REGION 10 - BEAUMONT

Date Compliance History Prepared:

January 18, 2012

REGISTRATION

Agency Decision Requiring Compliance History:

• '

Compliance Period:

Enforcement

January 18, 2007 to January 18, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

Wallace Myers

Phone:

512-239-6580

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

YES

2. Has there been a (known) change in ownership/operator of the site during the compliance period?

YES

3. If YES, who is the current owner/operator?

Karim, Khaled, OWNER since 08/01/2008

Pyakurel, Shaki, OPERATOR since 08/01/2008

BRENCO MARKETING CORP., OPERATOR since 08/01/2008

4. If YES, who was/were the prior owner(s)/operator(s)?

Karim, Khaled, OWNER OPERATOR, 6/7/2001 to 8/1/2008

5. If YES, when did the change(s) in owner or operator occur?

8/1/2008

6. Rating Date: 9/1/2011 Repeat Violator:

NO

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/23/2010 (849629) 2 01/05/2011 (877469) 3 01/12/2012 (977223) 4 01/12/2012 (980410)

Written notices of violations (NOV). (CCEDS Inv. Track. No.)

(980475)

N/A

F. Environmental audits.

E.

N/A

G. Type of environmental management systems (EMSs).

01/12/2012

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

Ν/Δ

J. Early compliance.

N/A Sites Outside of Texas N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
KHALED KARIM AND SHAKI	§	TEXAS COMMISSION ON
PYAKUREL DBA KWICK	§	•
KORNER SHELL	§	
RN102012473	§	ENVIRONMENTAL OUALITY

AGREED ORDER DOCKET NO. 2012-0340-PST-E

I. JURISDICTION AND STIPULATIONS

On _______, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell ("the Respondents") under the authority of Tex. Water Code chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents together stipulate that:

- 1. Khaled Karim owns and Shaki Pyakurel operates a convenience store with retail sales of gasoline at 203 South Timberland Drive in Lufkin, Angelina County, Texas (the "Facility").
- 2. The Respondents' four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Executive Director and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
- 4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about January 17, 2012.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Ten Thousand One Hundred Thirty-Two Dollars (\$10,132) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondents have paid Eight Thousand One Hundred Six Dollars (\$8,106) of the administrative penalty and Two Thousand Twenty-Six Dollars (\$2,026) is deferred contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents to pay all or part of the deferred penalty.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondents agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 Tex. Admin. Code § 70.10(a).
- 9. The Executive Director recognizes that the Respondents successfully conducted the line leak detector and piping tightness testing on January 24, 2011.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondents are alleged to have:

- 1. Failed to operate and maintain the UST system in accordance with accepted industry practices, in violation of 30 Tex. ADMIN. CODE § 334.48(b), as documented during investigations conducted on August 5, 2010 and December 28, 2011. Specifically, staining was observed on the equipment beneath dispenser nos. 3, 5, and 7 and in sump no. 1.
- 2. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition, in violation of 30 Tex. ADMIN. CODE § 334.7(d)(3), as documented during investigations conducted on August 5, 2010 and December 28, 2011. Specifically, the registration was not updated to reflect the current release detection information for the UST system.
- 3. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contains regulated substances, in violation of 30 Tex. ADMIN. CODE § 334.50(a)(1)(A) and Tex. WATER CODE § 26.3475(c)(1), as documented during investigations conducted on August 5, 2010 and December 28, 2011.

- 4. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a), as documented during investigations conducted on August 5, 2010 and December 28, 2011.
- 5. Failed to conduct reconciliation of inventory control at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(ii) and Tex. WATER CODE § 26.3475(c)(1), as documented during investigations conducted on August 5, 2010 and December 28, 2011.
- 6. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1), as documented during investigations conducted on August 5, 2010 and December 28, 2011.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell, Docket No. 2012-0340-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
- 3. It is further ordered that the Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:

- i. Submit an amended registration to reflect the current release detection information for the UST system, in accordance with 30 Tex. ADMIN. CODE § 334-7;
- ii. Install and implement a release detection method for the USTs at the Facility and begin recording volume measurements and reconciliation of inventory control at least once a month, in accordance with 30 Tex. ADMIN. CODE § 334.50;
- iii. Implement procedures to ensure the UST system is operated and maintained in accordance with accepted industry practices including, but not limited to inspecting the equipment beneath dispenser nos. 3, 5, and 7 and sump no. 1 to ensure no leaks are present, in accordance with 30 Tex. ADMIN. CODE § 334.48; and cleanup and dispose of the stained soils at an authorized facility.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager Beaumont Regional Office Texas Commission on Environmental Quality 3870 Eastex Freeway Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

- 5. If the Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 8. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	ען און און Date
agree to the attached Agreed Order on behalf of	the attached Agreed Order. I am authorized to of the entity indicated below my signature, and I therein. I further acknowledge that the TCEQ, in aterially relying on such representation.
 and/or failure to timely pay the penalty amount A negative impact on compliance history Greater scrutiny of any permit application Referral of this case to the Attorney of additional penalties, and/or attorney fee Increased penalties in any future enforces 	ons submitted; General's Office for contempt, injunctive relief, s, or to a collection agency; ement actions; eral's Office of any future enforcement actions; by law.
Signature Signature .	April 26, 2012 Date
Khaled Karim Name (Printed or typed) Authorized Representative of Khaled Karim dba Kwick Korner Shell	Owner Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell DOCKET NO. 2012-0340-PST-E Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
Pem Jove J	1/18/13
For the Executive Director	Date
I, the undersigned, have read and understand the agree to the attached Agreed Order on behalf of th do agree to the terms and conditions specified there accepting payment for the penalty amount, is mater	e entry indicated below my signature, and a ein. I further acknowledge that the TCEQ, in ially relying on such representation.
 additional penalties, and/or attorney fees, o Increased penalties in any future enforceme Automatic referral to the Attorney General 	submitted; eral's Office for contempt, injunctive relief r to a collection agency; nt actions; l's Office of any future enforcement actions
TCEQ seeking other relief as authorized by l In addition, any falsification of any compliance doc	aw. numents may result in criminal prosecution.
S. Oyock eyeel.	08/20/2012 Date
SHAKHI PYAKUREL Name (Printed or typed) Authorized Representative of Shaki Pyakurel dba Kwick Korner Shell	OWN ER Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.